

809. f 6
3 52d

P L A N
OF
P R O C E E D I N G :

OCTAVO.

FIRST PART:

HOLMES'—TRACT
ON

BODIES CORPORATE GENERALLY;
THOSE IN EXETER SPECIALLY,
WHICH INCLUDES
THE NOVEL COUNTY-RATES, EXETER, 1799.

SECOND PART.

HOLMES' EPITOME OF POLITICAL HISTORY,
ANCIENT AND MODERN,

COMMENTED ON,

In hope of affording some Information to the Middle and Lower
Classes of Mankind, countenancing Virtue and discouraging Vice.

THIRD PART.

HOLMES ON THE POLICE OF EXETER *pecially*,
ANCIENT AND MODERN,

AS AN

ACCOMPANIMENT to IZAACKE'S MEMORIALS of the CITY.

Duly entered at Stationers' Hall, London.

N. B. As the Compilation is for an Amusement to the Compiler,
three Years *may be* required before the Three Parts be
published.—To be dated the Last Day of the Year 1799.

T. BRICE, PRINTER, HIGH-STREET, EXETER.



INTRODUCTION.

FELLOW - CITIZENS.

*
(1)

Exeter,
THE LAST DAY
OF

1799.

DEAR SIRS,

THE Love of my King and Country, Duty to Magistrates, and that Equity may be the Ruling Principle in THIS CITY ; being a DEAF, healthy, independent Person, passed 64 years of age ; no family besides four household servants ; a Freeman of Exeter ; S. C. L. Oxford † (2) ; and my comfortable independence affording me leisure, with a disposition to study to promote the PUBLIC WELFARE of my Native City — I, therefore, consider myself bound by Christian Duty ‡ (3) to make known to you the truths of the premises, IN A TREATISE, formed from genuine manuscripts and the best printed authorities in my power, of which I hope to shew that I now possess a plenty.

I confess, my hope was faint, until I was favoured, by my Friends, with some valuable documents for the purpose ; which will discover such evidence, that you may easily form a CASE, for Counsel to deliver his opinion thereon, if requisite, or a judgment and determination, by yourselves, what you ought to do, whenever ORDERS be issued from the Courts of Sessions, Exeter, for Levies to be made on the lands and personal property, in the City and County of the City of Exeter—respecting the Charges for Carriages for His Majesty's Forces passing through the County of Exon, styled, in the title-page, NOVEL COUNTY-RATES—or for the Repairs of the very old County-Gaol, Southgate Prison—or for Houses of Correction—or Bridges—or any such County-Rates accustomed to be levied on Counties, where there have been NO Royal Charters granted, that have provided the WAYS and MEANS to discharge the same.

* (1) See p. 4.

† (2) See p. 4.

‡ (3) See p. 4.

*The POWERS, Income, Revenues, Issues, and Profits, &c. of the Chamber amount to at least 4000*l*. which will be demonstrated—and Causes assigned, Why the Citizens have been held in ignorance thereof from the year 1627—the Quayage of Topsham—and many other Public Incidents—so as to form an Epitome of the POLICE, ancient and modern, of the City and County of Exeter.*

*Some of these subjects appear to me of such important consequences, that I think myself obliged to treat them more largely than I at first intended. I hope to render them an accompaniment to the Memorials of Exeter—to contain truths of a far longer duration than that of an EPHEMERON-fly, whose birth is in the morning, propagates at noon, and dies at night. I shall endeavour to follow the examples of Horne's *Mirror* and Lord Fortescue's *Treatise on the Commendation of the Laws of England*, by introducing some apt scripture-texts, in confirmation and illustration of the truths declared—I mean such as all ought to notice.—Judge Blackstone, in his *Commentaries*, makes an admirable distinction between the import of the word *Usury* in the Scripture and Legal Interest in England.*

*As an example of my intention—when commenting on Municipal Corporate Bodies SELF-ELECTED—namely, those that have had the honour of having been elected, to elect OTHERS, who (if they are Freemen, so called in Exeter) are compellable to serve, or pay the fine, for the office of Common Council now 200*l*. or be sent to prison, until the office be accepted or the fine paid.—But, if any have the favour of the Body Corporate (not a Freeman) to be nominated, and be or they approving thereof—then to be sworn to secrecy, and become a member thereof.*

Moses (in whom the primary power, among the Israelites, was vested of elections) chose, from among the tribes, Captains of Thousands, of Hundreds, of Fifties, of Tens.—In example thereof, ALFRED, king of England, instituted Tythings, Hundreds (Boroughs), Shires (Counties); not permitting a self-elected Body Corporate throughout all his dominions.

The Copy of a complete RENTAL will be herein published of all the LANDS—TENEMENTS—HEREDITAMENTS—INCOME—REVENUE—ISSUES—PROFITS—the Property of the Chamber of Exeter, a Body Corporate—also, the CHURCH-LIVINGS, whereof they are PATRONS.

Hereinafter will be noted the Origin of Boroughs & Town Dues, so called in Exeter—some Account of the Decrees in Chancery—the Act of Parliament, 1771, relative to the MANOR of Topsham, which is now a distinct estate from the the Quayage, Tolls, &c. thereof, &c. &c. &c.—However, I may now relate, that the Rents of the twenty-four Country Butchers Stalls in the Corn-Market are said to amount to 220*l.* per ann. The Rest, as follow, in the best order I can, considering what degree of attention I have been necessitated unto for acquisition thereof, not able to attain but little oral information, and none found to give themselves the trouble of writing on such latent subjects herein treated of.

I wish you health, prosperity, and happiness; and

I remain

Your devoted humble servant,

William Holmes,

A Freeman of Exeter,

&

S. C. L. Oriel College, Oxford.

* (1) The Scripture says, " Be ye as wise as serpents,
" and as harmless as doves." Matt. x.

† (2) W. H. matriculated 10th February, 1774—admitted a Student in Civil Law, at Oxford, 22d June, 1778—*whereof* an affidavit was made by the *Dean* of Oriel College, when at Exeter, in the year 1780.

———" HE, *qui vult rerum cognoscere causas*," (says the eminent Arthur Brown, Esq.) " should study the Civil Law. It is an everlasting Code between man and man. Lord Mansfield was a perfect master of it. It is the rule of Military and Maritime Courts; and in our Ecclesiastical Courts, when any difficult causes happen, *they* have recourse to it. It is the basis of the Laws of Scotland,"——See A. Brown, Professor of Civil Law in the University of Dublin, vol. i. printed 1798.

Other SAGES assert, that the *Common Law* is the result of wisdom and experience.——See also Lord Fortescue's Commendation of the Laws of England, *which* Judge Blackstone, in his 4 volumes of Commentaries, has so admirably *systematised*.

" *Statute Law* (acts of parliament) is either *declaratory* of the *Common Law*, or *remedial* of some defect therein. Thus, the statute of treason, 25 Edw. 3. c. 2. doth not make any new *species* of treason, but only, for the benefit of the subject, *declares* and enumerates those several *species* of treason, which before were *treason* at the Common Law."——Blackstone, Comm. vol. i. page 86.

‡ (3) " THE LAW OF THE LORD is an undefiled
" LAW, converting the SOUL." Psalm xix.

" Look not every man on his own things; but every man *also* on the things of others." Phil. ii. 4.—*Therefore*, W. H. as *herein* before expressed, having, by Divine Providence, *means* for his own happiness, considers himself BOUND, by CHRISTIAN DUTY, to endeavour to *promote* the mental, corporal, and financial happiness of others; *which* this compilation *may have* a tendency to do; at least to SOME, who might not otherwise attain the truths *herein* (to be) contained; for nothing but the truth is *intended* to be produced.

14th APRIL, 1800.

HOLMES'—TRACT

ON THE
NOVEL COUNTY-RATES, EXETER, 1799.

HYPOTHETICALLY FOUNDED

ON THE
BIRTHS OF TWO ACTS OF PARLIAMENT,
(12 and 13 GEORGE II.)

Now nearly SIXTY Years of Age ;

COLLATED WITH

COUNTY-RATES, DEVON, &c:

Where Forfeitures of Recognizances, Felons' Goods, &c.
pass into His Majesty's Exchequer,

BUT

In Exeter, to the BURSER of the Chamber of Exeter ;

Including a Sketch of the Present State of the City

BODIES—CORPORATE,

GENERALLY AND SPECIALLY DISCUSSED ;

By WILLIAM HOLMES, Esq.

A Deaf FREEMAN of Exeter,

S. C. L. ————— OXFORD.

Dulp entered at Stationers' Hall, London.

This Tract sold by Mr. Samuel Coker, Sadler's Ironmonger, near the Public Pump, South-Street, Exeter—who will keep the Account of Sale without Reward—as the Profit by Sale (if any) will be for public Benefit—if a Loss, Mr. H. will readily pay it.

Sold also by all Booksellers in England.

T. Brice, Printer, High-street, Exeter,

[Price One Shilling, stitched in Blue Paper.]

THE NEW YORK PUBLIC LIBRARY

ASTOR LENOX TILDEN FOUNDATION

500 FIFTH AVENUE, NEW YORK, N. Y.

1897

1897

1897

1897

1897

1897

1897

1897

1897

1897

1897

1897

1897

1897

1897

1897

1897

1897

1897

1897

1897

1897

1897

1897

1897

MEMORANDUM.

This *Treat* is extracted from the *proposed Publication*,—as Determination is forthwith to be made—A RATE—or—NO RATE.

FELLOW-CITIZENS.

Exeter, the Last Day
of
1799:

(*)

DEAR SIRS,

THE TWO ORDERS for levying the NOVEL COUNTY-RATES, from the Justices of the Peace, EXETER, bear dates January 14th and October 7th, 1799, at their Sessions then holden, viz.

“ *And whereas* it appears to this Court, that a considerable EXPENCE has been incurred, *since* the 25th March last (1798), within the County of the City of Exeter, by the Constables thereof, by means of the extraordinary Charge of providing Carriages for HIS MAJESTY’S FORCES passing through the said County, which Expence is undischarged by the said County”—

Then follows—

“ And whereas it appears to this Court, THAT *there is* not at present in the Hands of the TREASURER of the said County sufficient to satisfy the said CHARGE”—

[*] “ *In order to judge rightly, what any thing is—it must be considered, not only what it is in itself, or in one respect; but also what it may be in any other respect, which it is capable of being denied by facts or practice; and the whole description of the thing ought to be taken.*”—See Wollaston, Religion of Nature delineated, sect. i. p. 18—a source of everlasting knowledge.—10,000 copies sold in one week.

“ Gird up the loins of your mind. Be sober, and hope to the end.”

1 Pet. i. 13.

“ Let your moderation be known unto all men.”

Phil. iv. 5.

“ Prove all things; hold fast that which is good.”

1 Thess. v. 21.

I am purposed my mouth shall not transgress.”

Pl. xvii. 3. xli. 3.

Then, the ORDER for levying the said *County-Rates*, addressed to the CORPORATION of the POOR, instituted by act of parliament about the year 1697.—There are several statutes, since passed, relative to the said Body Corporate; but ALL limit the *Levies* by them to be made, *solely*, for the Relief and Maintenance of the POOR, and to the Support and Maintenance of the FAMILIES of the Militia.

I presume, the Justices, Members of the said Corporation, (as I, W. H. am) did not recollect the *restraining* clauses of the said acts. I have thus presumed to say, for I have every dutiful regard for the Justices of the Peace, Exeter: And I am as desirous as any—that what has been given *them* by royal charters should be enjoyed *by them*—as the Treatise will give proof. Yet, as the Proverbs declare, “*He that regardeth gentle intimation is WISE.*” I, therefore, as a Freeman, without the least desire to give the smallest offence, go on to promulgate truths, for *their* reconsideration, and for the guidance of the Citizens.

The first Two Rates (1799) 50*l.* each, were paid by the Corporation of the Poor, without convening a Court thereof, to animadvert on the propriety of the same. The Two Rates of Michaelmas Sessions, 50*l.* each, caused a demur;—a Court was convened of the Corporation. The Justices are prohibited, by the last act of parliament, (28th of his present Majesty) to *vote* for levies, as they are judges, in their sessions, of all levies to be made by the Corporation of the Poor.

Many of the Common-Councilmen (Members of the Chamber) are Members of the Corporation of the Poor. *These*, with their Friends, formed a majority, ordering payment of the Second Hundred, by the Treasurer of the Poor, to the New County Treasurer—*although* COUNSELLOR P. in his Opinion, said, “I am inclined *strongly* to think, THAT it will NOT be strictly and formally “REGULAR, for the Corporation of the Poor of Exeter “to pay THIS RATE; and, therefore, I can hardly venture to ADVISE THEM to pay it.”—“It seems to me, “therefore, that the last Rate (Michaelmas Sessions) is “MISDIRECTED to the GOVERNORS, &c: of the POOR; “and that *such a Rate* cannot confer LEGAL AUTHORITY “to those to whom it is directed to levy it.”

But this compliance to oblige the Chamber is *very small*, in comparison of what was formerly done, in acquiescence of the desire of the Body Corporate, expressed in the note. *

I was asked—(and I may be permitted to say, pharisaically)—“Do you think the Justices would do *WRONG*?”—Answered, “No: But they may err.”—I further answered, “What the holy Apostles said, who refused to be worshipped at Lystra, when regarded as gods from heaven, may be said by our worthy Justices of Exeter,—“We are men of like passions with you.” All men are confessedly subject to human error—of which the following :

When King Charles the First was in want of cash, he was advised, by *some of the most Learned Men in the Law*, that, by his *prerogative*, he could *levy SHIP-MONEY*; but this was found to be a fatal error.

I remember a case, stated by the Directors of the East-India Company, whereon the opinions of *four* Barristers, eminently learned above the description of my pen, were taken. Two of them declared *Pro*—the other two, *Con*. The Term Reports furnish a number of examples of the difference of opinion among the learned; and no wonder; for ideas of words used, in the history of facts differ—*a knave* of the Lord in our very old bibles—*now* a servant of the Lord.

One of the Majority came, the next day, to me (though the Minority, in point of property, may be thought superior compoundedly) and wished to enter into conversation with me on the matter of yesterday. I said (as I could not hear distinctly) I wish to avoid any thing being said to

* Mr. Izaacke (*Memorials of Exeter*, p. 122, year 1544) says, “The *New Haven*, or *Water-Course*, was begun to be made. “Towards the charges thereof, most part of the *Parish Churches* gave some portion of their *PLATE*, amounting to *NINE Hundred OUNCES OF SILVER*, part gilted.”—“K. Edward VI. in the 5th year of his reign, in the year 1551, (as Izaacke says) sent a Commission to *this* Mayor, the Bishop, &c. for taking an inventory of all plate, jewels, goods, and ornaments whatsoever, belonging to any church within the City and County; whereof the Commissioners prayed, that there might be deducted out of their certificate the value of about a thousand ounces of plate, which *some* of the said parishes had given to the said City towards the *New Works*, or *Haven*.” Solomon, in his Proverbs, writes, “Many seek the *RULERS* favour.” Prov. xxxix. 26.

me on the subject. But he pressed to say, "We (meaning the Majority, as he was one of them) "are of a different opinion from you." Of whom I could not refrain asking, "Do you think, that you, all put together, have read or thought so much on the subject as I, who am deaf?"—Answer, No—"Then be pleased to say *my words* to them who sent you. I have never been accustomed, *purposely*, to shut my eyes, to be led by the *blind*; and that, from henceforth, I will not be asked any more questions (unless written) on the subject; for I intend to print my sentiments thereon."

I am sorry I was obliged to this degree of answer.

I revert to the *Order* of Sessions.—The Justices assert, that the *Treasurer* for County-Rates, Exeter, has not money in hand, &c. ; which was, undoubtedly, true; for no Treasurer ever had any monies, for which the *Levies* were ordered by the Epiphany Sessions. No person *ever* was appointed (as I am informed) *prior* to the year 1799. Permit me only to say, I would to God, the Justices had candidly declared, "That neither HE, whom we have recently appointed to the Office of Treasurer, nor Ourselves, at present, have monies in hand to pay the Charge incurred by *His Majesty's Forces* passing through the County."

The Chamber of Exeter, of which the Justices are Members, may be *temporarily* out of *cash*, for *undry* reasons; partly, because they might have borrowed some, when they purchased the Quayage, &c. of Topsham—an estate in FEE, which cost them 4700*l.* which is considered to be an exceeding of the powers given them by the Charter of King Charles the First, which will be hereinafter cited.

The Chamber of Exeter have been accustomed, by virtue of their emoluments, resulting by increments of the royal charters given and granted, to pay the *very charges*, for which they now ORDER Rates to be levied on real and personal property of the City and County of Exeter. I cannot forbear an astonishment, that Orders should be issued, *knowing*, that His Majesty's predecessors, *Kings and Queens of England*, have given and granted lands, tenements, and hereditaments, town-dues, and many emoluments, as will be hereinafter specified, to such a vast amount per ann; to be a stock and provision for the

public exigencies and charges, incident to the City and County of the City.—Income more than 4000l. per ann.

I must think, that the *supposition* of power to levy was an error which will soon be perceived, and remedied accordingly: For, where would be loyalty, if, from their funds, or by borrowing, they will not pay the Charge of *His Majesty's Troops*, as USUAL immemorially. This cause seems, to me, not unfamiliar to that of a person, to whom was given an estate in FEE of great value, the donor reserving to himself and his heirs a *conventional* rent of a few faggots of wood from the said estate, which would produce an *abundance* of wood, unless prematurely cut down, or otherwise disposed of.—Thus, the Chamber, having disposed of their cash, have not at present cash, wherewith to pay the Charge of His Majesty's Forces passing through the County, as may be hereinafter fully explained.

The Chamber of Exeter are TRUSTEES for the PUBLIC WEAL; and are commanded, by the royal charter, *to use* the emoluments thereby and *thereof*, for the following purposes:

The Charter of K. Charles I 1627, may be styled the aggregate of all the royal charters, and is the last, *except* that of His present Majesty, appointing all the Justices to be *Quorum Justices*, but the Junior Justice, dated 25th April, 1770.

K. Charles I's Charter, [page 3, of the copy, printed at Exeter, in 1785] says, "Whereas divers of our illustrious Ancestors, *Kings and Queens of England*," (as before intimated) "HAVE, of their special grace and royal favour, shewn towards their beloved subjects, the Mayor, Bailiffs, and Commonalty of the City of Exeter, and towards the PUBLIC GOOD of the same," &c.

Page 25.—"AND MOREOVER, of our abundant grace, and for the SUPPORT and IMPROVEMENT of our said City of Exeter—We have granted, and, by these presents, do grant, all Fines, Forfeitures, &c. &c. &c. whatsoever."

Page 37.—"And furthermore, know ye, that We—TO THE INTENT, that the Mayor, Bailiffs, and Commonalty of the said City, from time to time, may be the better ENABLED to sustain and support the PUBLIC CHARGES and EXPENCES of the said

“ *City*—of our special grace, and our certain knowledge
 “ and mere motion, and, by these presents, for Us, our
 “ Heirs, and Successors, DO GIVE and GRANT *Power*
 “ to purchase Lands, *not exceeding* £. 100 per Ann.”—
besides those they already had.

But, under date 1769, will appear, that the Chamber of Exeter PAID, for the purchase of the estate in FEE—Quayage, &c. of Topsham—the sum of 4700l. ; which, at 4 $\frac{1}{2}$ per cent. amounts to per ann. 211l. 10s.—*Therefore*, it has been said to them, that this purchase exceeded the LIMITATION in their Charter, as will be fully set forth:

I admire the *Limitation* (alias) Prohibition in the Royal Charter of K. Charles I. as hereinafter.

Havard writes,——“ Say, what is Power !

“ The vain extent of title and of land ;

“ The barbarous impulse of th’ insulting man,

“ To use his fellow creature like a slave ;

“ The woman’s idol, and the man’s misfortune,

“ As it too often robs him of humanity.”

Havard, K. Charles the First.

Consequently,—

The Chamber of Exeter being TRUSTEES, provided with Estates and Emoluments, so various and so great, as to amount to full 4000l. per ann.

I have to repeat the USES, to which they are directed to apply the same, *namely*, TO PUBLIC GOOD—TO the SUPPORT and IMPROVEMENT—and to enable them to sustain and support the PUBLIC CHARGES of the said City of Exeter.

Provided the Chamber of Exeter have (and which they *ought* to have) wherewith to pay the *Charge* incident to His present *Majesty’s Forces* marching through the City and County of Exeter ; *They*, the Chamber of Exeter, seem to be bound by gratitude, and *by duty*, to pay those Charges, for which they order the *aforesaid Naval County-Rates*.

But, as Mr. Izaacke, heretofore Chamberlain of Exeter, has asserted, that this City has the same Customs, Liberties, Privileges, &c. that the Chamber of London have, I shall have recourse to the Charters granted to *that City*.

All the Aldermen in London (prior to, and since the year 1627) have been *elected* by the suffrages of the Freemen of London: But the Statute 11 Geo. 1. c. 18. which regulates the election of Aldermen, &c requires that every Freeman must pay scot and lot to a certain degree, as therein specified, as a qualification to vote at the election of an Alderman, &c.

The Chamber of Exeter (for time immemorial) have construed their Charter to have given to those who were Members, a POWER to elect others by their own VOICES, whenever a vacancy happen.

I pause, to determine, whether to explain here, or hereinafter: But, as I regard the POWER, with its appurtenances, so vastly great as ought to be fully explained; *therefore*, know all men, that it is my duty to have recourse to the STATUTE 12 Geo. 2. c. 27, which limits the power and jurisdiction of the highest, most learned men, adorned with all the christian virtues, the Venerable Twelve Judges of England. Can I, therefore, suppose, that the Justices are not *so limited* as THOSE SAGES are limited?—I bow with reverence to THEM.—I ask, Are THESE Worthy Solds as likely to be puffed up, or the hundredth part as proud, as a Man from a Shop to a Judiciary Bench, to hear and determine between man and man?

Act 2 Geo. 2. c. 27.—“Whereas an act, made in “the eighth year of the reign of King Richard the Second, intituled, *No Man of Law shall be Justice of Affize or Gaol Delivery in his own Country*, it is enacted, that no Man of Law shall from thenceforth be Justice of Affize, or of the Common Deliverance of Gaols, in his own Country: And whereas, by an act, made in the thirty-third year of King Henry the Eighth, intituled, *An Act that none shall be Justices of Affize in his own Country*, &c. it is, among other things, enacted, that no Justice, nor other Man learned in the Law of this Realm, shall use or exercise the office of Justice of Affize, within any County where the said Justice was born, or doth inhabit, upon pain to forfeit, for every offence done contrary to the said act, 100l.: And whereas such acts have been construed to extend, not only to Justices of Affize and Justices of Gaol-Delivery, but also to Justices NISI PRIUS: And—*for remedy*, be it enacted, &c. Justices (Judges) of OYER and Terminer of Gaol Delivery are hereby im-

“ powered to act in their Native County.”—However, the *Restraint* appears to me, by this act, still to remain respecting *Nisi Prius* causes.

How admirably delicate does the *legislative conduct* manifest itself in the said statute !

The Justices of the Peace, Exeter, by Charter of King Charles, 1627, are constituted Judges in all Criminal Cases whatever, within the City and County of the City of Exeter, *except the Crime of Treason, or Misprision of Treason.*

The LAW forbids all men from giving evidence in any civil cause, if interested in its issue.—But, in Exeter, the Justices, Members of the Chamber, Judges of Criminal Causes, may be considered as interested in the event ; for they are to have all the felon’s goods, if found guilty, by a Jury, and sentence passed on the felon by THEM.—Can any man possessed of but a small share of reason, think, that King Charles the First ever intended such power to the Sons of Men, *self-elected* into a Body Corporate, with such vast pecuniary emoluments ?—I answer, that HE never could have intended such power. The Copy of his Charter wisely says, “ And after the death or amotion of any or either of such Twenty-four of the Common-Council of the said City, in form aforesaid, the Rest of the said Twenty-four, or the Major Part of them, having notice, and being present, shall, within a convenient time after such death or amotion, *elect and choose* one or more person or persons of the most substantial and discreet Citizens, and Freemen of the said City, to fill up the said number of Twenty-four of the Common-Council of the said City, according to the Custom used in our City of London, FOR THE ELECTION OF Twenty-four Aldermen THERE.—N. B. Which always was by the Suffrages of the Freemen. *

* The foresight and precautionousness of King Charles the First appear highly praise-worthy—that the Men to be vested with such powers should be considered, had, and be elected, by the knowledge of those who were to be guided, governed, and judged by them :—For the Holy Apostles, replèted with the Holy Spirit in all wisdom and judgment, gave a most worthy example to their Disciples, as to the mode of election, who should be their *Justices* ; for so they may be styled.—Whereupon the Apostles issue their proclamation for the election of seven Deacons.—“ Wherefore, brethren, look YE out among you seven men of honest report, full of the Holy Ghost and wisdom, whom we may appoint over this business.”

The Charter to London of K. Richard says—"For the
"COMMON WEAL."

K. John's Charter—"Furthermore, for the AD-
"VANCEMENT of the said City."

In the Charter of K. Henry III.—"For the A-
"MENDMENT of the said City."

K. Edward I.'s Charter—"Know ye, that We, for
"the BETTERING of our City of London."

I might suppose, that sufficient has been *cited*, to know the USES, for which Royal Charters HAVE been given and granted, *namely*, For the PUBLIC Discharge of all Expences *incident* to each respective City—NOT for the Sumptuosity of Public Dinners—NOR for the Pageantry of a City—NOR for Babylonish Music, or City Waits—*until* there be a *Surplus*, after paying the *Charge* of aiding His Majesty's Forces passing through the City and County—*also* all other *necessary* Charges incident to the same.

I have asserted, as I *ought* to do, THAT the Chamber of Exeter have been accustomed, by USAGE IMMEMORIAL, to pay the Charges incurred by their *Majesty's Forces*, Kings and Queens of England, passing through the County and City of Exeter. I think, my best mode of explaining the *phrase* will be to *apply* what the Lawyers call a Case in point.

The Quay, &c. of Topsham, was built, in the year 1316, by the then Earl of Devon. One of his successors, in the year 1535, forfeited the said Quay, with its Rights, Members, and Appurtenances, by attainder, to the Crown of England. In the reign of *Queen Elizabeth*, the Crown

Similar thereto is the practice to this day in the City of London. The election of the Sheriffs in London is by the voice of the Livery. When elected, the Sheriffs wait on the Barons of the Exchequer, to be approved, &c.

If the Charter of King Charles had not SPECIFIED the mode of election—and if not LIMITED the amount of lands the Chamber might then in future purchase—there might come a period, when the Chamber might consist of a few families, with whom the immense revenues, powers, &c. would be vested, that the other inhabitants might be like West-Indian Slaves or African Negroes.

There are many instances of a long continued error remedied; by causing the present Members Corporate to remain, and, on a vacancy, to elect *secundum rationem*.

granted a *term* of years, for a valuable consideration, to Mr. William Stubbs, *reserving* to the Crown a conventional rent of 20l. per ann.

In the 3d year of K. James II. proof was given, that the FEE *thereof* had been purchased of the Crown, for the sum of 3000l. by William Sandford and William Glubbs, Esqrs. to pay 20l. per ann. for ever.

In the reign of K. James II. certain persons contended that the Proprietors of the said Quay, &c. had not a right to demand certain Tolls, &c. This being litigated, a *decree passed*, that whatever tolls had been *USUALLY* and immemorially paid, *should be continued to be paid thenceforth and for ever.*

The Chamber of Exeter, as has been before intimated, DID purchase, in the year 1769, the said Quayage, with all its Members and Appurtenances, for the sum of 4700l. from Thomas Nottbmore, Esq. and others. Certain persons of Topsham, in the year 1797, *refused* to pay certain demands made by the Chamber of Exeter; a *case* was then stated, which is *now* before me, *whereby* I obtain information, relative to the said Quayage, &c. of Topsham. * And hereby be it known, that, in the year 1797, the utmost search was made in the *proper* offices, London, for the original Grant of the Crown; but it could NOT BE any where found.

But I hereby solemnly declare, that I believe the Chamber of Exeter are legally seized in FEE, by means of the before-cited purchase of the Quayage of Topsham, with its Appurtenances, Rights, Tolls, Customs, and Priviledges *therewith* belonging.

This declaration, I should hope, is convincing, that *my desire is*, "Tribute to whom tribute"—"Custom to whom custom"—*not forgetting* the question of the Publican, put to the *Preacher of Repentance*, "Master, *what shall we do?* To whom he answered, "*Exact no more than what is appointed you.*"

* I am also in possession of the *Decrees* in Chancery, and of the Act of Parliament, passed in the year 1771, for the sale of Mr. John Effington's estates in FEE; which, I understand, *include* the MANOR of Topsham, (*now distinct* from the Quayage, &c.) also some houses, near Broad Southernhay-Lane, Exeter. A *Moiety* of *Lammas-Fair* was annexed to this Manor, which will be introduced in the 2d part of this Treatise, or in the Appendix.

I have said to the Corporation of the Poor, in their public courts, when many of the Chamber were present, "The Chamber RECEIVE by *usage immemorial* :--- *Therefore*, on the principle of *equity*, they ought to PAY, by the said *usage immemorial*, those Charges, for which they now (but never before 1799) order Levies by County-Rates." I was not attended to effectually ; the cause thereof may hereinafter appear. It will be for you, my Fellow-Citizens, to consider and determine what you ought to do, when you have had the best productions I can on the *equity* of the case.—But I ought not to omit citing the solemn opinion of Two Learned JUDGES, sitting in the Court of the *King's Bench*. [See Term Reports, Durnford and East, vol. iii. p. 271, vol. 4. p. 871.

A Remark on Usage—Jurisdiction.

Lord Kenyon's words are—"In this particular, we should at least pause, before we break in upon the USAGE, which has prevailed for near two centuries, and which has at least grown venerable from length of time. In this, as in other cases, contemporary and continued usage is a good guide for the construction of it."

Judge Buller's words are—"Then, with regard to the USAGE. Usage, with the meaning of the CHARTER, has prevailed for 190 years. AND, if, the words of the Charter were more disputable than they are, I think THAT ought to govern."

Determined by the Court in favour of Usage.*

* USAGE.—As this Tract could not be printed until April, 1800, the following apt Note is inserted.

N. B. At the late assize at Maidstone, Kent, a Cause of considerable importance to CORPORATE TOWNS was tried there. The Chamberlain of the Corporation of DOVER, and his Assistants, had, under authority of a *Prohibitory Custom*, alledged to have existed time immemorial, and an ancient Bye-Law, for excluding Non-Freemen from carrying on Trade within the Liberties of the Town, by subjecting them to a Penalty of 6s. 8d per Day, to be levied by distress, entered the house of a Person, named Butfield, and carried away a table and some other articles.—An Action was brought for the Recovery of these; but the LAW and USAGE in question being established, the Jury found a Verdict, confirming the Right of the Corporation with Costs.—*Sun News Paper*, dated 27th March, 1800.

But why (say some) should we *demur* granting to the Chamber a *couple* of hundred pounds? — *However*, be assured, my Fellow-Citizens, *the Novel County-Rates* are only a PROLOGUE to a future demand of many thousands of pounds. Wherefore, be pleased to ruminate on what has been herein cited; and also add thereto what will be herein specified.

The Grand Jury of Exeter, at the last Michaelmas Sessions, *having* a Common-Councilman *their Foreman*, went to Southgate-Prison, the Common Gaol, and took *a view* of the same; and having seen, and resolved, that the same was in a ruinous state and condition, it was recommended by the Foreman (as I am informed) to make a presentment thereof to the Sessions. It was accordingly presented as ruinous. The Jury could not agree, until they came into the Guildhall; where they were advised to present the Justices; *whom* they did present.

But there remains to be presented *Cowley - Bridge*, distant about two miles from the City — (a part of the wall *thereof* lately fallen) —; for, *most assuredly*, if the Justices CAN legally order Rates, to pay the incidental Charges of his *Majesty's Forces* passing through Exeter, they can and will order Rates, for repairing and rebuilding of the said County-Gaol and Bridges; though the Acts of Parliament, *which* they think give them power, were passed about *sixty years* ago, but never put into use to aid of the Chamber of Exeter, *until* the present year 1799.

But who, among us Citizens, can refrain expressions of astonishment, that acts of parliament should lie dormant so long; or that some of the Chamber, or their Legal Officers, should have omitted so long to apply the *use thereof*, if *those acts* gave THEM power so to do.

Mr. Hooker, alias Vowler, once Chamberlain of Exeter and Representative in Parliament for the City, Brother to the very learned and judicious Rev. Mr. Hooker, who wrote the *Ecclesiastical Polity*, *informs*, in a quarto volume of the Antiquities, and of the Duty of the Municipal Officers of the City, "That the Town-Clerk is not only to write and set down, both in records and in books, what is done by the Mayor, Bailiffs, and Com-

“ monalty, in their Courts, and by their Officers, and by
 “ the Common-Council in their assemblies; but also to
 “ inform and instruct them, what is to be done, and what
 “ every one ought to do: And, therefore, his service is to
 “ necessary and requisite, that HE can at no time be absent,
 “ or elong himself from out of the City, without special
 “ licence.”

I humbly, and with all deference, *suggest*, that the Charter has been considered as amply supplying the Chamber with *Ways and Means* to answer all the Public Charges incident to the City: But, as their finances are temporarily low (for temporarily only they will be low); and, as the Town of Nottingham, a County of itself, succeeded, a few years since, in the Court of King's Bench, as will be related; it may have been said to the Justices, “*You can but try to succeed also.*”

The DISTINCTION should be made, by all who take the present subject into their consideration, *between RATES* in the County of Devon and County-Rates in Exeter.—*In Devon*, all Fines, Recognizances, Forfeitures, &c. &c. are paid into *His Majesty's Exchequer*, except some Forfeitures to *Lords of Manors*. There is no Charter given and granted to the Justices—no Lands, Tenements, Hereditaments, Emoluments, Town-Dues, &c. as the Justices of the Peace, Exeter, *Members* of the Chamber, have had given and granted to them by royal bounty.

The Acts of Parliament, upon which the Justices in Exeter ground the *supposed* power of ordering such County-Rates to be levied, were passed in the years 1739 and 1740.

12 Geo. 2. c. 29, intituled, “An Act for the more easy assessing, levying, and collecting of County-Rates.”—Sect. 13. “That no part of the monies collected in pursuance of this Act shall be applied to the Repairs of any Bridges, Gaols, Prisons, or Houses of Correction, until Presentments be made of the respective Grand Juries.”

N. B. Therefore, the Grand Jury of Exeter, last Michaelmas Sessions, presented the ruinous state and condition of Southgate-Prison—namely—the positive neglect of DUTY of the Chamber of Exeter, as will be hereinafter undeniably and amply proved.

Arguments, pro and con, on the subject before intimated.

The Town of NOTTINGHAM, a County by royal charter, *whetein* the Municipal Government of that County-Town having given, about 70 years ago, a building, *for the purpose* of a House of Correction, and maintained by them unto the year 1795, is *not* a House of Correction within the Statute of the 17 Geo. c. 5. s. 31. liable to be maintained by the Corporation; *but the Public* may be called upon to repair it. See Term Reports, D. and E. vol. vi. p. 228, 663.

17 Geo. 3. c. 5. sct. 31.

“ And be it further enacted, by the authority aforesaid,
 “ that the Justices of the Peace for any County, Riding,
 “ City, Borough, Town-Corporate, Division, or Liberty,
 “ at their General or Quarter Sessions, shall, and are
 “ hereby required from time to time to take effectual
 “ care, that the Houses of Correction already provided or
 “ hereafter to be provided, within the limits of their respective jurisdictions,—(*except* such Houses of Correction as have been or shall be erected or maintained by any *Particular Founder*)—shall be fitted up, furnished, and supplied with sufficient implements, materials, and furniture, for keeping, relieving, setting to work, employing, and correcting, all idle persons, rogues, vagabonds, incorrigible rogues, and others, who shall be sent to, confined, or continued in the same.—The Justices of the Peace respectively shall have the ordering, directing, &c. of the said *House of Correction*.”

The above is *cited*, as it may be hereafter in the PLEA of the Justices of the Peace, Exeter, *relative to* the House of Correction, called the *Bridewell*, situated in Paris-Street.†

† Memorandum.—*These parts* of the subject inclining to *argument*, requires a stretch of memory to arrange them; for which I beg of my readers their kind indulgence.—I now hesitate, whether here or hereinafter to insert *concerning the repairs*—of the House of Correction of the Common Gaol—of Cowley-Bridge, part of the wall thereof fallen, &c.—But, as none of *these* were in the Case before Counsel; which, if they had been there fully stated, *being* so connected with the Charges for His Majesty's Forces, &c. passing through Exeter, there would have been no occasion for this publication; I now *resolve* to reserve the full specific evidence, to be a summary in one or other of the latter pages *bereof*.

But hereon I have to make a few animadversions.

As I have read, on the *Journal* of the House of Commons,

"Veneris, 30mo Januarii, 4to Caroli Regis. *

"Moved, that when Jourdain's *Election* was made by the Committee of Exeter, allowed by the House, and that made by the *Magistrates rejected*: The Magistrates do now *refuse to pay* Mr. Jourdain his Wages OUT OF LANDS given to them for *that Purpose*, but pay the other *Burgesses* §

"The consideration *hereof* referred to the Committee of Priviledges; to be the *next case* after that of Mr. Flynt.

"Jovis, 5to Feb. 4 Caroli Regis.

"The Aldermen and Town Clerk of Exeter, now in Town, to attend the Committee of Priviledges, about Mr. Jourdain's WAGES; and the sending for the two Aldermen to be stayed."

The following *Answer* was made' (*not*, that I recollect, *on the Journal*) to the House of Commons; but the authenticity of it is certain.

Verbatim.—The reason of their *not paying it*.—

"BECAUSE their REVENUE had been of late *reduced*: But, that they had, notwithstanding, *offered* JOURDAINE 20s, 30s, 40s, *apiece*, TOWARDS his Wages, though Mr. HAIME, Mr. Jourdain's Fellow Citizen, *served without*."

Note, Above is a CONFESSION, that they had LANDS for the *specific purpose*.

Quære, What, and where, are those Lands?

Quære also, If they had not LANDS, &c. for Repair of the Common Gaol, returned decayed last Michaelmas?—also, of Bridges, Houses of Correction, &c.?

* 1628, the year after the Charter was granted to the Mayor, aliffs, and Commonalty of the City of Exeter.

§ They USURPED the Election *among* themselves of Members to present the City of Exeter in Parliament: However, the wisdom the HOUSE *quashed* that mode of Election; and from that æra, Members of Parliament have been elected by the *suffrages* of the freemen and Freeholders of Exeter and Exon.

The Cause of their Reduced INCOME, in the year 1678, I can speak to, as specified in a Manuscript some time since given me, *which will be copied, verbatim.*

A COPY thereof.—*A Counter Petition to Parliament.*

The Case of the Citizens of Exeter, for the Year 1697.

“ By an Act, made the 31st Henry 8th, the Mayor, Bailiffs, and Commonalty of the City of Exeter, are impowered to make the River navigable to the said City of Exon; to pluck down, dig, &c.

“ By virtue of this Act of Parliament, the then Government of the said City began and perfected the said Work; so that the said River became navigable for boats and barges of 20 to 30 tons, from Exeter to Topsham, four miles from the said City, where ships of greater burden did before harbour. This communication by the River was of great advantage to the said City and parts adjacent; and generally to, and sufficient for, the trade and commerce of the said City; and the advantage arising to the Government of the said City, by the duties of goods passing the said Works, was very considerable.

“ Thus it continued, until about *Michaelmas*—1698—the Government of the said City, without the consent or advice of the inhabitants, *pretending* to make the River more navigable, for ships of 150 tons, from the mouth of the sea to the said City, contracted with one ----- Bailly, a vagabond, for effecting this work, for the sum of 6000l.

“ Accordingly, the said ----- Bailly enters upon the work, and destroyed the sluices, and thereby totally obstructed the communication between the said City and the sea; which has been to the very great damages of the Citizens, they paying 40l. to 50l. per week, for extraordinary land-carriage from Topsham to the said City, the price of land-carriage being more than double per ton than what it was before the sluices were destroyed.

“ About Whitsunday last, the said ----- Bailly (their Engineer) ran away, and carried off part of the 6000l. which the Government had borrowed for perfecting the work.

" And, some time after, the Member of the said Government, in whose hands the said 6000l. was deposited, *withdrew himself*.

" Upon ----- Baily's going, the Government turned Engineers themselves; though they understood *little of the matter*, as was manifest by their contradictions of each other. They pretend, that they have expended 5000l. besides the 6000l. lately borrowed; and yet the works are more ruinous, and farther from completing, than when they undertook it.

" The said Government pretend, that they now stand indebted 10,000l. which, they say, they laid out upon the said Works within 25 years last past, before this last undertaking; which the Citizens *utterly deny*.

" The said Government undertaking to make the River navigable, is in itself impracticable; or, at least, not to be effected *without* such an expence, as that the benefit will not correspond with an answer to the charges.

" The said Government now seeks for an *Act of Parliament*, to raise money of the said City, for perfecting the said work; which the principal Traders and Inhabitants hope *will never* be granted them.

" *First*, For that the Petition obtained by the Government of the said City was *procured* by indirect means. Not one fifth part of the subscribers are payers to church or poor, the same being signed by divers alms-house persons, persons now in prison for debt, and bailed, also by about 600 non-payers, and about 650 unknown persons.

" 2dly, Divers *threats* given to persons that refused to sign the said Petition.

" 3dly, For that the principal Citizens and Traders are convinced, that the River, as it was formerly, was sufficient for the trade and commerce of the said City; and such an enlargement of the River, as the Government of the said City pretend to, will never answer the charge.

" 4thly, For that the Government of the said City, from time out of mind, had, and now have, *estates of about 2500l. per ann.*; which, if duly applied, had been sufficient to answer all emergencies; the necessary expences of the City being about 500l. per ann.

" 5thly, For that the Citizens have already made an offer to the Government of the said City, and are still willing to advance the money demanded by them, (being 5000l.) they then declaring that to be a sufficient sum to perfect the said work to Trenchard Sluice, upon such security as they are capable of making.

" 6thly, For that several of the Aldermen of the said City, who are concerned in this undertaking, are men of mean circumstances, under composition with their creditors, have committed acts of bankruptcy, and no way capable of bearing any proportion of the intended taxes."

N. B.

The Charter of K. Charles I. says, that Common-Councilmen are *amoveable*, if poor.*

In or about the years 1697, 1698, there seems to have existed a great *perverseness* in the Chamber of Exeter; first, with the *Inhabitants*; and secondly, with the Corporation of the Poor; which is said to be recorded in the court-books of the said Corporation.

Not long after the election of the 40 Guardians, the Corporation, July 21, 1698, making an application to the Chamber for the house and field at the bottom of Paris-Street, bequeathed by the late Mr. John King of Exeter, merchant, for the use of an hospital or workhouse, the Chamber promised to convey the premises; but they afterwards demanded the enormous sum of 400l. for the conveyance thereof, altho' to the purposes for which the same were bequeathed, whereby the Corporation of the Poor (who could not wait the event of vexatious law suits), were obliged to make agreement for the lands whereon our magnificent workhouse now stands.

* Example.—In the Act of Parliament (13 Geo. 3. c. 27. year 1772) for establishing the *Court of Requests, Exeter*, for recovering debts, contracted within the City and County of the City of Exeter, of less than forty shillings, there is power given for the AMOTION of any Commissioner, who has neglected or omitted to attend the business of the Court during a year. — But my sentiments are, that such *not actually amoved* by the *due process*, as directed by the Act, and he coming to Court, and attending the hearing and determination of a Cause *there*, (though his absence prior thereto was 15 months or more) by re-acting, *not actually amoved*, HE re-establishes himself, and is *not amoveable* on account of his former absence; for, otherwise, there might be much inconveniency.

Another circumstance proving the same perverseness discovered itself also; for soon after the demand was made of the aforesaid workhouse and field, the Chamber of Exeter, by means of that power and influence, which they had acquired by their public funds, vexatiously and shamefully abrogated the powers of the act on which *this Constitution* of the Poor was, founded, and absolutely detained from the Corporation of the Poor, for near *two years*, the power to collect the rates towards the support of the Poor; but, as a lasting monument of the virtue and integrity of *the then* Citizens of Exeter, they made a voluntary subscription to the amount of 1416l. for the *public good*, a part of which was used to compel the Chamber to *their duty*, in which laudable undertaking they succeeded, by a verdict at the Castle of Exon, (March, 1700), and by a peremptory mandamus to the Mayor, Justices, and eight Assistants, that they should approve, confirm, *not alter*, the rates then already made. †

About the same period, Christopher Bale, Esq. Alderman of the East-ward, refused to hold a wardmote in the said ward, to elect a Guardian in the room of Gregory Bryant, deceased, in direct violation of the positive act of parliament, alledging, "That he could not be at the wardmote, for the Chamber were all upon him not to hold the Court, except two or three, and were angry at what he had already done." He further declared, "That while he was concerned with that body (the Chamber), he must do as they would have him; else they would hate him;" whereon a prosecution was ordered by the Corporation of the Poor to be commenced against him for neglect of duty as a Alderman (see record, Nov. 7, 1699).

The Act of Parliament (9 & 10 K. Wm. 3. c. 33. ann. 1697) which constituted the Corporation of the Poor a Corporate Body, appears to have been copied from

† The pretence which the Mayor and Justices made for retaining this power from the Corporation of the Poor, was, "That the 40 Guardians were not duly elected, although they themselves (viz. the Justices) had made a return of their being so. June 28, 1698." Compared with record, May 4, 1700.

the Statute of the Bristol institution of the Corporation of the Poor *there—except a whole clause*, that of directing the Members to be *amoved* at the end of four years after election, and others to be chosen. *This clause being omitted*, the Members once elected in Exeter, by the suffrages of the *Voters* paying 2d. per week to the poor-rates, in the respective four wards or quarters of the City and County, *remained* in office *during life*: Some became *paupers*, receiving parochial weekly relief, and *continued* acting Members of the Corporation: But now all are elected for life; but there are in the later Acts of Parliament clauses of disqualification.

In the years 1783, 1784, 1785, the Citizens of Exeter voluntarily raised a fund of at least 800l. and employed AGENTS (W. H. &c.) to attend at the House of Commons; where they were opposed by Members of the Chamber and picked chosen Members of the Corporation of the Poor, that all POWER might vest in what may be called *The Self-elected Body*, as will be treated of hereafter. Many improvements in the SYSTEM were petitioned for at the House of Commons, London:

10th Clause proposed, but negatived.

A CLAUSE, That from and after the passing of this act, NO COMMON-COUNCILMAN *of the Chamber of Exon* be eligible to the office of a Guardian of the Poor; and when any Guardian of the Poor, or any one of the twenty-two Commissioners, shall be elected, and shall become a Common-Councilman, he shall cease to be a Guardian, or shall cease to be a Commissioner, as the case shall happen; and another shall be elected a Guardian or a Commissioner in his stead, according to the direction in the former statutes, for the electing of a Guardian, or expressed herein, for the electing of a Commissioner.

N. B. Hence a well-grounded hope of never experiencing the lamentable effects of the power and influence of the Chamber of Exon, as in the early period of the Corporation, and in succeeding years, as before noted, of *which the record of the Corporation of the Poor bears another undeniable testimony.*

COPY.

" Court, at Guildhall, 3d March, 1761.

" *Resolved*, That this Corporation will support the
" INTEREST of JOHN TUCKFIELD and JOHN WALTER
" in conjunction at the *approaching Election*."

The court-book, with this resolution, was exhibited before Parliament in the year 1784, and there reprobated.

N. B. Of this Election a few words only at present, as the subject of Parliamentary Election will be hereinafter discussed.

John Tuckfield and John Walter, Esqrs. v. G. Sewell and W. M. Praed, Esqrs —immensely expensive—riotous—and Exeter was a public stage of drunkenness—every art and delusion to gain a vote—about 1300 voters—and then calculated that 700 took a bribe for voting.

19th Clause, partly granted.

A CLAUSE, That from and after the passing of this act, the *Workhouse* shall be supplied with provisions and other necessities by *public contract*; and no Guardian of the Poor, no Member of the Chamber, nor any one of the twenty-two Commissioners, shall supply the Workhouse by contract or sale, or have any thing to do therewith, under a penalty, to be inflicted by the act.

N. B. This is agreeable to the wisdom of the Hon. House of Commons; for a *similar prohibition* was enacted during the year 1783, respecting the supply of the Poor, in the parish of Bradford, in the county of Wilts; and this would tend to lessen the immoderate desire of continuing a Guardian during life—then *no more a profit on coals, &c. &c.*

The above-cited Clauses were printed among a number of Observations, &c. dated 10th Nov. 1784, on a very large sheet of paper.

Now the cause of Nottingham, heard & determined in the Court of King's Bench, as before cited, is *to be compared* with the City of Exeter and its Municipal Revenue.

Nottingham is a Borough by PRESCRIPTION, made a County by Letters Patent. It contains (as Mr. Brice, in his Topographical Dictionary, says) only three parish churches. It stands pleasantly, on the ascent of a rock,

overlooking the *Trent*, running parallel about one mile to the south; and, to the town a navigation only by *barges*.

This town can only be regarded as a *diminutive*, when compared with the City and County of Exeter, which has nineteen parishes and three districts or precincts, of which the diameters, north and south, east and west, are each about two miles; whose exports, in time of peace, have been moderately calculated at 10,000*l.* weekly; whose imports are very considerable for the City and country, a length of more than thirty miles from the sea. THE JURISDICTION of the Port, that pays *petty customs* to the Chamber, commonly called *town-dues*, EXTENDS in and from the River *Axe* to and in the River *Taig*, a coast of about thirty miles; and also from the sea, on both sides of the River *Exe*, to *Exe-Bridge*, about ten miles.

In Nottingham, a House of Correction and a Prison, though no culprit be there. The revenues of the one may be insufficient taken aggregately; but in Exeter, they exceed far abundantly, as has been cited in the year 1698—a surplus of 2000*l.* per ann. above the necessary expences incident to the City—and now surpass it.

When application was made to confirm the Nottingham County-Rates, they were confirmed: But when an application be made for the establishment of the *Novel County-Rates*, Exeter, it is probable (I intimate only) they will be *denied*.

The prejudiced in opinion, and those who have lust to promote municipal power, may say, “Has not a case been stated, and an opinion taken, that the case of Nottingham determines the case of Exeter?”

As the cases stated *seemed* to the Counsel to be *similar*, the opinion given on the first statement might be attached to the second; though I have known the contrary. The Acts of Parliament that constituted the Corporation of the Poor were sent to him, that he might not wholly depend on the *abridged statement thereof*; and thereon an opinion specific was given, as aforesaid.—“I am strongly inclined to think, that it will not be strictly and formally regular for the Corporation of the Poor for Exeter to pay *those Rates*; and therefore, if it is likely to be *contested*, I can hardly venture to advise them to pay it.”—However, there the Majority caused to be entered into the court-book, that these Rates should be paid by the Treasurer, to be levied on the Inhabitants by

the Corporation of the Poor, if approved by the Justices in their Session.—But more hereof hereinafter.

I moved, in the Court of the said Corporation, that *the Names of the Minority* should be specially entered on the book, that posterity might know who voted *against* the payment of the hundred pounds to the Treasurer of the County of Exeter; and that I thought myself authorised so to do, by the general advice given in the note † to *all Bodies Corporate whatever*.—But the *Majority* forbade the Clerk from it.

My experience gave me the following intelligence, concerning two Barristers, for whom I had, and now have for him that survives, an esteem for his judgment.—A case was stated by the Attorney, and delivered to Counsel; a copy thereof made, and delivered to another Counsel. It happened that one opinion thereon differed as widely as the north from the south; and having an esteem for both, I *quashed* the proceeding.

Lord Chief Justice Hale purchased an estate to a very considerable amount; and when the money was paid, his Lordship observed that he had a very defective title. The Friend, to whom was made known the imperfection of the title, said, “My Lord, how happened this?”—Answer: “I can only assign one reason for it: I never gave an opinion *without a fee*; but herein the fee was *included* in the purchase-money.”—So the fee of the opinion on the Novel County-Rates here, was included in the annual salary of office.

If the case that may be stated from these presents be stated and laid before Counsel, and compared with that

† CORPORATIONS.—“I have always been of opinion, that there is *inherent* in the *Members* of a Corporation, or of the governing Part thereof, a power of entering their *Dissent* from any Corporate Act in the public registry or records of the Body.—I say *Dissent*, rather than *Protest*; because the latter is supposed to contain the reason on which it rests; and I should by no means think that every man has a right to insert on the face of the public registry, reasons which be futile, absurd, or insulting to the Majority: But it seems to be conformable to every principle of reason, that he should have a power of expressing his *Dissent*, in defence of his character, as well as protection of his property.”—Extracted from an octavo volume, printed 1798, on Civil Law, with notes applicable to the present æra, written by Arthur Brown, Esq. Professor of Civil Law in the University of Dublin, and one of the Representatives in the Irish Parliament for that City.

before cited, he may say, "That was *deficient* of many "material facts, which this now before me contains."—To speak plainly; I drew up a case; but I would not trust to my inexperience. I shewed it to an eminent Attorney, whom I requested to take a pen, and expunge or supply, as he thought meet; whereon he declared, that the case was as well drawn as any Counsel in the kingdom could expect. This I shewed to three of the Committee, who esteemed their own self-opinion and case superior, without some of the facts, which I strongly recommended to be inserted. But, now these facts are herein inserted, it will remain for the Citizens to determine.

I, therefore, as a Freeman, in all the characteristics thereof, shall endeavour to follow the rule of Shakspeare, "*Nought extenuate, nor ought set down in malice*;" for, I declare, I have not enmity against any in this world; and I may say, that few men, without fee or reward, would undertake this task; and I consider myself always to have shewn a willingness to act for the public good; of which my labour and my actions published, with an honest and good intention, give manifest proof. I shall *bercin* strive to promote the legal interest, as well of Bodies Corporate as of my Fellow-Citizens, and of all those who have the least claim thereto by law divine or human.—I will not sell my time to any man; but freely give it, when justly wanted.

The Justices of Nottingham, as before cited, part of the Corporation of the said town, *declined* to continue the repairs, &c. of the House of Correction, which had been given and repaired by them during 70 years, by the said Corporation probably not having sufficient *revenues* to enable *them* to continue the said repairs. But the Chamber of Exeter having a *revenue* of more than 4000l. per ann. can the *case* of Nottingham be supposed to be *similar* to the case of *Exeter*? †

† Lord Mansfield *did* declare, that no *two* cases are *exactly similar*.

—The ever venerable Bishop Watson, that Champion of *Christian Liberty*, has experimentally demonstrated, that the parts of an *oak tree* are not *chemically similar*. His words are—"I took a piece of *dry oak*, which had been felled about a year; I rasped off
"from

And who will say, that the Chamber of Exeter have not *specific lands* for the repair, &c. of the House of Correction and of Southgate-Prison, and for all the Bridges? It has been proved, that they had *LANDS* to pay the *Wages*, so called, of the *City Members* while serving in Parliament.

Mr. Samuel Izaacke, whose Father and Grandfather were Chamberlains of Exeter, did, in the year 1736, publish a volume of the Donations and Bequests to the Chamber of Exeter, in trust; some of them not applied according to the will and directions of the Donors. But you will soon perceive, that *Mr. Richard Izaacke*, the Grandfather, by his *Preface* to the *Antiquities and Memorials* of Exeter, was resolved, as far as in him was, to keep the Inhabitants in total ignorance of the *Charters* granted—of the *Lands*, &c. given to the Chamber of Exeter in trust.

“*Preface*.—To the Right Worshipful the Mayor,
“Aldermen, and Common Council of the ancient
“and honourable City of Exeter.

“Gentlemen, 'Tis fit my obedience *should* last as long
“as your commands, in a willing readiness; whereunto,
“about eight years since, I presented you this book, enlarged
“with some private *acts* and other *secrets* of your counsel,
“properly there *inserted* for your daily use, and as necessarily here *omitted*, for that *they* immediately concern
“*yourselves*, and therefore *unfit* to be communicated.”—
London, printed in the year 1681.

Mr. Samuel Izaacke, Son of *Mr. Richard*, the Chamberlain, reprinted the said volume, and continued the

“from the *bark*, from the *sap*, and from the *heart* of the wood, *equal*
“*weights*, and put them into *equal* portions of water. After they
“had stood some time, it was apparent, that the *bark* had given an
“higher colour to the water than the *heart* had done; and that the
“water, into which the *sap* was put, had extracted the least colour.
“Into *equal* portions of a solution of *green vitriol*, I put *equal parts*
“of these several infusions, *expecting* to have seen the *vitriol* coloured by them all alike; but the *event* was, that the *sap* infusion
“produced little change of colour; the *bark* infusion gave a dark
“brown; and the *heart* infusion *instantly* gave one of the most *vivid*
“*blues* I ever saw.”—See *Watson's Chemical Essays*, 4 vol. 12mo.
printed 1782.

Memorials of Exeter to the year 1722 *inclusive*. Both omit the Royal Charters granted to Exeter, *except* that of King Henry VII. in the 10th year of his reign, while in Exeter, anno 1497.

But that you, my Fellow-Citizens, should not remain *unknowing* of the *municipal* laws, by which your predecessors and you have been *ruled* for 158 years—*therefore*, the then late *Mayor* of Exeter brought from the Council Chamber a Translation of the Great Charter of King Charles I. 1627—the *congregate* of all former charters to the City of Exeter—of which I caused a copy to be made; and then we resolved, *for the sake* of our Fellow-Citizens, that he should cause to be printed, at his sole cost, the said Charter, and I would compile a copious Index, chronologically, to the volume of Legacies, Donations, &c. bequeathed and given, in trust, to the Chamber of Exeter, from the year 1164 to 1697, first printed from the manuscripts of Mess. R. and S. Izaacke, by Samuel Izaacke, as before cited; both which were printed *accordingly* in the year 1785. I wished both to be *reprinted*; I enquired of the Printer what would be the cost thereof: He said 500 copies could be reprinted for about 25l. The then late Mayor, of whose name, in the sequel of this compilation, honourable mention will be made, ceases not to furnish me with *some* documents for your further information; to whom I hereby, as I do to all others, *for their papers*, render my hearty thanks; for it is expensive to obtain that information the Citizens wish to possess; and the expence would be increased, if application be made at *Public Offices*, London, for copies of records:

But there happened, in or about the year 1756, a *consult* of Merchants of Exeter and the Chamber, relative to the demand of some *town-dues*, petty customs; whereon a writ was issued from the Court of *King's Bench*, requiring the examination of certain books and papers of the Chamber. At that time, the Chamber caused a large sheet of paper to be printed, under the signature of Benj. Heath, Esq. *Town-Clerk*, containing the specific packages of goods and articles of merchandize, amounting in number to 478 specific charges. This account you will have to compare with *extracts* from the quarto volume of the learned and laborious Mr. Hargrave, on the ORIGIN,

&c. of Town-Dues, which will be communicated to you in part of the Treatise.

I have heard and seen, long since, of LANDS (so expressed) formerly sold by the Chamber of Exeter.—*Quære*; Whether in FREE, or not?—Yet THOSE LANDS might have been given *for the very purposes* of repairing BRIDGES—COMMON GAOL—HOUSES OF CORRECTION, &c. &c. *Whereupon*, the Chamber might take upon themselves the RESPONSIBILITY; and consider, that their other Rents, Issues, and Profits would provide for the said repairs from time to time, though traces thereof *may not now* be found: For Mr. R. Izaacke published, that many of the Rolls were lost; and, I read, that one of the Sub-Officers was accused, &c. of taking the Records. Also, in the year 1489, a certain Roll, called the BLACK ROLL, and a Book therein, containing the ANCIENT ORDERS, PRIVILEGES, and Customs, for the good government of the said City, with other things, relative to the dignity thereof, was delivered to the Mayor, and transferred from Mayor to Mayor in succession. This ROLL, in the reign of King Edward VI. was, by one *Griffith Meredith*, delivered to Sir *Wm. Cecil*, Knt. Secretary of State to that King, and *never returned*. §

§ A Parish Church and Tower, in a Borough Town, within the Diocese of Exeter, not 25 miles distant, was, a few years since, so damaged by lightning, that the repairs thereof amount to upwards of 800*l*. A RATE was made to levy the same: Some of the Parishioners *demiured*, asserting, that the Body Corporate had Lands, the produce of which, by rents, was specifically given for Repairs of the Church and Tower, then amounting to 20*l*. per ann. The present Members of the Corporation expressed a ready willingness to have their RECORDS examined; when it was found, that the ancient Predecessors of the present Members had actually converted the estate, several fields, into cash.—*Lamenting* that such should have been the *past conduct*, expressing a readiness to pay in future annually *twenty pounds*, the Parishioners answer, as I am informed, “You are to pay, towards the RATE, the many years’ arrears of 20*l*.; and “then the remainder of the sum of 800*l*. may be levied.”—*Sub judice lis est*.

Once (of the *thrice* that I have attended the House of Commons, London) I met a Gentleman in the Lobby, who said to me, “We are “come with a counter-petition; for our Corporation have already petitioned Parliament for an act to enable them to pay off a debt of *sixteen* “hundred pounds they have contracted; but we can prove, they “have spent *eleven* hundred pounds thereof in eating and drinking.”

The City and County of Exeter, in circumference full *six miles*, never calculated to contain twenty thousand souls. The City environed with a stone wall, measuring, as it is said, a mile and half; distant from the sea about *ten miles*; having a canal, called *The New Haven*, formed by four sluices; the canal, about four miles to the tides, on which vessels navigate, not drawing more than 9 feet of water, and whose breadth, I think, must not exceed 22 feet. These vessels come to the Quay, distant about 200 yards from the south city wall. The four principal streets formerly measured more than 40 feet wide, as does at present the Fore-Street, where the market is held, Wednesdays and Fridays. This street runs from north-east towards south-west. At Carfois was erected, in 1461, a cistern encompassed with stone, supplied with excellent water, through lead pipes, from a spring never failing north of the conduit. Many of the other streets are much incommoded by obtrusions of the houses; first, by extension of the upper floors in front beyond the ground floor; then, by permission or otherwise, building the front of the ground floor perpendicular with the upper floor. And Exeter, being a walled city, was anciently deemed a more secure residence. In the year 1520, the Municipal Government issued their decree; and all Freemen were ordered to live *within* the City, on pain of disfranchisement. [See Izaacke, under date 1520.] Another cause of the streets being very narrow and intruded on:—The LORDS of the FEE have been accustomed to grant *licences* for intrusions on the streets; as you'll hereafter find in the RENTAL, Such a one “a quit-rent for the front part of his house.” According to my humble opinion, the laws of England do not *tolerate* a licence for intrusion; for whatever was the King's Highway is to continue so for the use of all His Majesty's subjects; and the King is the guardian of the Public Highways, for the use of his subjects. §

§ There is a peculiar case in point, on the upper part of South-Street, called Bell-Hill. The Chapter granted a lease for building without the Deanry Wall; the Chamber granted a lease for building in front of that granted by the Chapter. The Proprietors must have two concurrent leases for the enjoyment of their premises.

I now proceed to relate on whom the Novel County-Rates are to be levied ; and grievous is *this part* of the task to me.

In this City, at present, are the direful uncirculating finances of commerce. The present war has more affected the trade and commerce of Exeter, than of any City in England ; for its commerce was to France, now our and Europe's inveterate enemies—to Italy, plundered and almost desolated by the French armies—to Spain, over whose territories France holds the sword of revenge, if the Spaniards pay the English what they justly are indebted to them. It has been said, that the Spaniards owed Exeter, at the commencement of the war, more than 80,000l. *

But I ought not to omit reminding the Justices, whose commiseration I herewith solicit, that the Merchants of Exeter, who are opulent with a *dormant* stock of merchandize, and unremitted by their Foreign Correspondents, lately made affidavits, that their income did not amount to 60l. per ann. —

Now, ponder all men, and sympathize.

—What a stagnation must result, by the restrained circulation of 10,000l. weekly exports—Merchants that have riches, without a power of being usefully moveable ; consequently, Dyers, Fullers, Pressmen, Manufacturers with their connected branches, and thousands of poor Mechanics—*whereby* the POOR-RATES, *principally*, are increased from 3000l. per ann. in 1697, when the Corporation of the Poor was instituted, to at present full 10,000l. per ann. ; a debt also incurred of about 5000l. for the main-

* The Prophet Ezekiel was pleased to give a very large *inventory* (in his 28th chapter) of wares and merchandize.

The Prophet Jeremiah has given us (in his 32d chapter) the law of *redemption*, the mode and practice of transferring estates in fee, the record *thereof*, which is practised to this day in England, with the smallest variation.

The Author of the Book of Ecclesiasticus speaks of the difference between the man of leisure and the labourer ; and who may be expected to be qualified for municipal governors.

tenance of the Poor and Militia-Mens' Families, soon to be levied ; *which* will make the *Levies* for the Poor, from 25th March, 1799, to 25th March, 1800, full a thousand pounds *per month*.

Moreover, This City is so disproportionally burthened by its QUOTA to the land-tax, as one of its nineteen parishes pays annually 25l. more than the whole City of Bath. The nett *rents* of BATH may be calculated at seventy times as much as those of that parish, not having twenty good houses in it.

Add hereto the national taxes, and especially the INCOME Tax, payable by law ; and more absolutely necessary taxes must be levied during the continuance of the war.

Lamentable is it to observe the number of houses void in Exeter.

The first question of all strangers who may wish to reside in Exeter naturally is, What are the *incumbrances* for the landlord or tenant to pay, of the rates, taxes, and all other imposts whatever ?

I thank my God, I did my utmost, by publication, (at the expence of about eleven guineas) to prevent common sewers in Exeter, *especially* in some of the narrow streets, that have not sufficient declivity even for the *rain-water* to run from them : And, as a justification of my conduct, I add hereto a Summary of the Rates and Taxes that would have been incurred, if *that foolish scheme* had taken effect—a vast further burden on the City, amounting at least to 60,000*l.* the interest thereof, at 5 per cent. 3000*l.* *

All may see the foot-path of the New Bridge, sunk within two years past, tho' lain eighteen years since. A vast number of houses, in the narrow streets, London, fell, when the sewers were there made ; and many of the houses in Exeter would have fallen, by digging the ground a proper depth for the said sewers.

* See my pamphlet on the New Pavements, printed 1795.

I pray for *indulgence*, to speak truth of myself, as the fact may be read, when I may be NO MORE. §

§ I may be charged by the INVETERATE—(for they only are *supposable*, criminally to lay any of my public acts to my charge)—with encouraging and aiding the Citizens to send a Counter-Petition to Parliament, respecting the POWERS of the Chamber and Corporation of the Poor *conjunctly*, in 1783, 1784, 1785.—In this also, my conscience ever was and is clear; for a saving of 1800l. per ann. on the most humane principles, was *the effect* in the Work-house.—No Annual Account of any Treasurer was registered, until, by me, in 1774; and, in approbation thereof, Parliament enacted, that such a Register should be kept annually by the Corporation, and by every parish in Exeter.

Indulge me, I pray, to add, (after *confessing*, that I have endeavoured to make for the *crooked* a strait path) that a complete *Journal* was kept, by the Incorporation of Weavers and Fullers, of all their Receipts and Disbursements; but *no specific Ledger* of each respective Charity.—I have had the satisfaction, with my own hand, to write a Ledger (Dr. and Cr.) of all their Charities, from the institution of them in 1639, to the present year, a period of 160 years; and, as a token of their approbation, the Company presented me with a *silver bread basket*, paid for from that stock which they have a right to expend: And I hereby solemnly declare, after investigating every page, from the said year 1639, every shilling that the Corporation received has been appropriated agreeably to the wills and directions of the respective donors.

I have also made a Digest of all the Wool Laws, approved of by Parliaments—published a Tract on the imprudent *Scheme* of permitting Wool to be exported out of England—and, I hope, performed many other public acts for the well-being of my Native City, &c.

Pardon me, for having said so much of myself: I have been induced *thereto*, as an EARNEST of my industry to fulfil my promise of the future publication, to be intituled, HOLMES' EPITOME OF POLITICAL HISTORY, to discountenance Vice, &c. and to encourage and promote Virtue, from the best approved Authorities, from the Creation, systematically arranged—a method that was barred me in this Tract, by the *necessity* of argument *pro* and *con.* on the subject to be determined—*A Rate—or—NO Rate.*

Such is the melancholy state and condition of a great number of the inhabitants of Exeter, compared with the Chamber, as a Body Corporate, whose income, in every year of peace, would amount to 5000*l.* per ann.

Bristol and London have published all their Charters, Letters Patent, and Acts of Parliament ; but Exeter only one, as afore said, that of King Henry VII.

Usurpation of the Mode of Election was made when there was no King in Israel nor in England, in the time of Oliver Cromwell : for all usurpers of legal rights have been prone to countenance the actions of opulent Bodies Corporate, upon the principle—" I'll assist you ; and you " shall assist me with your power."

Mr. Izaacke, under date 1683, 1684, when Christopher Brodridge was Mayor, says, that " King Charles the " Second, in the 35th year of his reign, calling for the " surrender of the *Charter*, § the same was accordingly " done. The following Gentlemen were appointed :

" James Walker, Esq. Mayor

" Thomas Gibbon, Esq. Recorder

" Henry Smith	} Aldermen	{	John Snell
" Endymion Walker			John Cholwich
" Robert Dabynott			Christopher Bale
" George Paffin			

" Edward Crofts, Esq. Sheriff

" John Carwithen	} Common Councilmen	{	Charles Alders
" Malachy Pyne			Thomas Hill
" Humphry Leigh			Edward Dalley
" John Gandy			William Tape
" Richard Pidsley			Trist Bowdidge
" John Matthew			Thomas Potter."

§ I must have recourse to the Municipal History of London, under the same date, 1683, wherein it is stated, that the unjust and arbitrary proceedings of the Ministry of King Charles, under pretended charges of disloyalty, &c. caused the Chamber of London to surrender their Charter ; but there is not a syllable of any new Charter granted. I therefore conclude, on rational principles, that the Charter of King Charles I. to Exeter was not *effectually* surrendered, —but that the said Charter is the *RULE* of Government of the City of Exeter to this day.

I NOW KNOW, *by manuscripts* before me, that the Usurpation of Election in the Chamber took place during the government of *Oliver Cromwell*: For, in the year 1662, in the 14th year of King Charles II. by royal mandate, sundry of the *Common-Council* created in *Oliver's* time were turned out, and others replaced in their stead.

King Charles I. was beheaded 30th January, 1649.—*Oliver Cromwell* and his son *Richard*, under the title of Protector, were sovereigns of all England, until about the year 1660; during which period *Charles II.* enjoyed little more than the title of King. He fled this kingdom, and arrived in France, in the month of November 1650, where, and at Breda, he remained till some time after the death of *Oliver*.

Izaacke, under date 1687, 28th of November following, says, an Order of *Privy Council* was sent hither, in these words, (to wit,)

“ James Rex.

“ Trusty and Well-beloved, We greet you well.

“ Whereas We have, by our Order in Council, thought
 “ fit to remove *John Snell, Esq.* from being Mayor and
 “ one of the Aldermen of that our City of Exeter”
 —[*N. B. who built the house I, W. H. have purchased.*.]—
 “ *George Paffin, John Cholwich, James Walker, and*
 “ *John Smith, from being Aldermen*—*Christopher Bale,*
 “ from being Sheriff and one of the Common-Council—
 “ *Humphry Leigh, Charles Alders, Thomas Potter,*
 “ *Nathaniel Gift, Malachy Pyne, Edward Dalley,*
 “ *John Carwithen, and William Tope, from being of*
 “ the Common-Council—and *Richard Rous* from being
 “ Swordbearer of our said City”—

What were their offences I am ignorant of, and have no desire of knowledge thereof.

If King Charles I. had not been in *distress*, he never would have granted to Exeter such a Charter.—

But he undoubtedly directed, that the Citizens of Exeter should choose, out of their respective Wards and Quarters, the Wiseſt and moſt Diſcreet among them for the High Municipal Offices—to hear, judge, and determine on their neighbour's cauſe, whether guilty or not guilty.

There generally (but not always) exiſt in Collected Bodies, what are commonly called Two Parties, ſometimes more; each deſirous of electing him who will be ſubmiſſive to thoſe who elect him in their humour, caprice, &c.—Such men having oppoſite views, the man to be elected is perceived through different mediums; conſequently, the Electors ſhould be the perſons to be governed—not a junction Like to Like;—for a moderate oppoſition is uſeful in all modes of free government, as ſuch oppoſition tends to render the Rulers cautious and prudent in their actions.

If application be made to the Court of King's Bench, I have not the leaſt doubt, but that all *future* Elections of Common - Councilmen (and, in proceſs ——— of Aldermen) will be by the ſuffrages of the Freemen of Exeter. And all thoſe already elected, at the date of the writ, would be ratified and confirmed in their reſpective ſtations of Aldermen and Councilmen: And that this would be the caſe, for the *confirmation* of all grants, leaſes, and bonds by them ſealed.

In Bodies Corporate (as aforeſaid) are commonly the two ſets—the Ruling Party—and thoſe that are a little reſtive and do not readily incline to ſubmiſſion. The Ruling chooſe thoſe that they think will join them, and will aid, by their union of voice, when elected, to keep what may be called the Reſtive Part in ſubjection: And upon this principle originates the miniſtration of power in a ſelf-elected Body Corporate.

In the mode of business of a Body Corporate, there is, generally, a rota of *government*, not of *reason*, but frequently of *prejudice*—" which is the wrong *bias* of the " SOUL, that effectually keeps it from coming near the " mark of *Truth*; nay, sets it at the greatest distance from " it.

" There are few in the world that look after *Truth* with " their *own* eyes: Most make use of *spectacles* of others' " making, *which* makes them so seldom behold the *lineaments* in the face of *Truth*.

" *Truth*, though SHE *be* so fair and pleasing as to draw " our *affections*, is yet so modest as to admit being " courted."

See Dr. Stillingfleet, *Origines Sacre*,
3 vol. 8vo, edit. 1797:

I now proceed to *Proof Positive* of the
Income, Revenue, Issues, Profits,
&c. of the Chamber of the City of
Exeter—the least product whereof,
in any year, as an account of ten
years, if produced, would prove.

On my late intimation to Mr. NICHOLAS BROOKE, M. D. (the quondam Mayor of Exeter respectfully mentioned in page 25) of my intention to print and publish a Tract on the NOVEL COUNTY-RATES, Exeter, I asked, if he found himself disposed to furnish me with his Account Current while he was Receiver General of the Chamber of Exeter. He answered, " With all " cheerfulness and readiness," adding, " I shall think " myself happy, to be able to render any service to my " Fellow-Citizens:" And he instantly made me a present *thereof*, duly attested by a Committee of the Chamber according to the legal form of attestation.

In the said Account (which comprises 40 pages of demi-royal paper) from Michaelmas 1778 to Michaelmas 1779, page 12, under title

“ ISSUES AND PROFITS.

	l.	s.	d.
“ The Wharfinger, for the Profits for the “ Haven, Quay, and Cellars - - -	1770	0	0
<i>N. B. This a small sum, compared with other years of product.</i>			
“ Mr. Charter, for the Duties on Foreign “ Goods - - - - -	292	10	2
“ Mr. Jackson, for the Profits of Topsham “ Quay - - - - -	146	17	7½
<i>N. B. This is also a small product for 4700l. purchase-money, which, at 4½ per cent. amounts to 211l. 10s. per ann.</i>			
“ Mr. James Cornish, for Town-Dues “ collected by him at Teignmouth - -	22	16	0
“ Twenty-four Country Butchers’ Stalls, “ in the Corn-Market, to be entered on “ at Michaelmas 1779, per ann. - -	217	0	0
<i>N. B. A Chamber impost on the victuals sold there twice a week.</i>			

Five articles, per ann. 2449 3 9½

N. B. The Whole to be hereafter published.

Among the disbursements in this year,

	l. s. d.
" To the City-Musick - - -	30 0 0

A set of Musicians precede the Recorder in his ambulation, from his house, or from the Mayoralty-House, to the seat of justice, at the Quarter Sessions and General Gaol Delivery of the City and County of Exon—not *that kind* of musick which the Judges on their circuit have so wisely *adopted*, the solemn *sound* of the trumpet, the symbolical *sound* of the general resurrection, which the Apostle emphatically expresses—

" In a moment, in the twinkling of an eye, at the last trump: For the *trumpet* shall sound, and the dead shall be raised incorruptible; and we shall be raised, and we shall be changed:

" For this corruptible must put on incorruption; and this mortal, immortality.

" For the Lord himself shall descend from heaven with a shout, with the voice of the Archangel, and with the *trump* of God; and the dead in Christ shall rise first."

How inconsistent, therefore, the tune of a minuet with the solemnity of *proceeding* to a court of judicature, where a fellow-creature is to be arraigned for an offence against man and against the Almighty!

I say, none of us can live a day satisfactorily, without the grace of God protecting. But some (says the Apostle) God gives over to a reprobate mind; whereof an example is given in Mr. Izaacke's Memorials, under date 1285;—when the late Mayor of Exeter and the Porter of Southgate were arraigned, condemned, and executed, for the murder of the first Chanter of Exeter, while he attended morning prayer, then two o'clock in the morning.

I add, in the words of the same Apostle, " Let him that standeth take heed, *lest* he fall:" Therefore, the most solemn music, and the most solemn deportment, in all courts of judicature, for the Judges thereof, and for all people.

Here follow two determined Causes, in favour of an encrease of emoluments to the Chambers of London, Exeter, &c.

Extracts, relative to Town-Dues.

Bulstrode's Reports, entered Easter Term, 9 James I. inter Placita Regis, Rot. 163.

The King and Sir Tho. Waller, against Frances Hanger, Widow of a Freeman of London.

The Cause was a Demand of *Prisage* of Wine, one-tenth of the quantity imported.

Argued by four Judges.—Two gave their opinion *Pro*; two *Con*.—But afterwards determined, That the Widow of a Freeman, resident in London, was exempt from the *Prisage* of Wine, &c. &c.

Among the arguments thereon, which are long and very acute, comprising 26 pages folio :

He, which is to take the benefit of this Charter, 1 Ed. III. ought not to be *Inquilinus nec Adventitius*.

He ought to be *Civis residens et commorans, Incola Civitatis*:

And so are the words of the Charter made unto them in 1 Edw. III.—“ And the King, ex speciali gratiâ, (of his special grace) did grant this discharge unto this City.”

And it appears by Magna Charta, cap. 9. “ Quod Civitates Londini omnes habeant libertates suas antiquas et consuetudines suas.”

Page 16, ed. 1659.—*A Citizen* is such a one as ought to be subject to *Scot* and *Lot*; and he ought to be *Liber Homo* (a Freeman).—*Scot* and *Lot* are particular payments imposed upon every one, but extend not to one who is *commorant*, residing in another place.

Page 23.—This Charter of 1 Edw. III. discharges resident Freemen, and the Widows of Freemen resident, so that they are exempt from all the Petty Customs or Town-Dues of their goods, wares, and merchandize, brought into London; also for their goods, &c. sent into any port, &c. in England.

Every resident Freeman of Exeter has the same privileges.—W. H. has the Charter 1 Edw. III.—Mr. Izaacke, page 19 of his Preface, notes a Charter of Hen. I. but Henry I. did not grant a Charter.—Of this at large in a future publication.

Notwithstanding this decision, in the reign of King James I. it was considered doubtful whether *residency* was absolutely necessary to enjoy the whole priviledges of the freedom of a City, &c. until April last, as follows :

Extract from the Sun News-Paper.

London, 22d April, 1799.

Court of Exchequer, at Bar.

The Mayor and Commonalty of London,
against

The Mayor, Burgeses, and Bailiffs, at Liverpool,
respecting *Town-Dues*.

(COPY)

“ Freemen of London (whether *resident* in London, or
“ NOT) considered themselves EXEMPT from payment of
“ *Town-Dues* at Liverpool, and at all other ports in the
“ kingdom of England.

“ The Jury were *unanimously* of opinion, That the
“ exemption was good and valid ; but that it must be ex-
“ ercised by Freemen of the City of London, RESIDING
“ IN THE CITY, paying SCOT and bearing LOT.” §

§ The exemption from all Tolls, Town-Dues, &c. was granted by King Henry II. King Henry III. King Edward III. to London and Exeter.—See London Magazine, year 1749, page 582.

A very considerable sum of money, that was due by Freemen of London resident in Exeter and elsewhere, was paid to the Chamber of Exeter, on the said determination, April, 1799.

Whenever a national peace be established, I calculate, that the Income of the Chamber, as aforesaid, will be 5000l. per ann. ; so that, in ten years of peace, 50,000l. will pass into their treasury—without selling the next *Presentation* of either of the Church Benefices, whereof they are PATRONS.

Yet, they now say, there are no monies in the hands of the Treasurer, recently appointed for the product of the Novel County-Rates, Exeter.

A Summary of the preceding contents, tho' a larger and a clearer proof remains to be made known.

The Justices declare their Treasurer has no money in hand, to pay the charge of his Majesty's Forces passing thro' the City and County.—They then *suppose* a law 60 years old empowers them to issue Orders from their Session: The *first* addressed to the Constables (on application to the Treasurer of the Corporation of the Poor) paid: The *second* addressed to the Governor, Deputy-Governor; &c. of the Corporation of the Poor.—Whereon, all the Members of the Corporation were duly summoned to attend a Court: A Committee appointed, report progress: Other Courts summoned.—The Opinion of Counsellor P. taken (See page 2 of this Tract).—Yet the *100l.* was voted: I think, 19 for, and 7 against paying the same.—Being paid, it consequently passes into the said Treasurer's account, and according to course, is to be first *audited* by a Committee of the Corporation; then sworn unto by the Treasurer; then presented to the Sessions, to be sanctioned or litigated. *So the Order begins with the Sessions and ends with the Sessions.*

I have sent my respects to the Treasurer, with some Observations relative to the article of *100l.* paid by him according to the Order of Michaelmas Sessions, by a Gentleman of the Law, that the business may be fully explained to him. But that Gentleman may not choose to give his sentiments on the case: I will, therefore, modestly venture mine; for I should be grieved, if I neglected this part of duty to the Treasurer, my Friend.

Counsellor P. has declared, that the Order conveys no power to *levy* the said *100l.*; and every Member of the Corporation *ought to know*, that there is not power in either of the Acts, relative to the said Corporation. They have power *ONLY* to levy for the Maintenance, &c. of the Poor, and for the Support and Maintenance of the Families of Militia-Men, together with *Costs and Charges* absolutely incidental to the Officers, &c. of the Corporation.—Consequently, Who of the Members of the Corporation *will think* of auditing the Treasurer's account, and make themselves *amenable* to the Court of King's Bench, Westminster: For the *100l.* was specifically for County-Rates, and *not* for the Poor. The account is *thereby rendered inadmissible*: It is surprising, that such an error of judgment should be adopted, or the Corporation vote for payment of the *100l.* to render *their* Treasurer's account (as aforesaid) inadmissible!

Therefore,

On every principle becoming me, I recommend to the
Magistrates, That they
IMMEDIATELY REPAY THE TWO HUNDRED
POUNDS to the Corporation of the Poor;
and be content with their immense **POWERS** and **Income**,
from their **Lands**, **Tenements**, **Hereditaments**, **Issues**, and
Profits; — *taking* for their **GUIDES**, the **LAWS**, the
PROPHETS, and the **APOSTLES**; —

and believe, that HOMER sometimes dreamt ! !

O THOU BLESSED MARTYR, KING CHARLES
the First, who so blessed the Chamber of Exeter ! —
THY ONLY Fault was AN EXTRAVAGANT
LUST OF POWER, — (with Bodies Corporate to
assist Thee) — **WHICH THOU LEARNED'ST**
OF THY FATHER, KING JAMES the First : —
In whose reign, (*Judge Blackstone*, in the 4th volume,
page 416, of his Commentaries, writes) “ The People
“ heard with astonishment doctrines preached from the
“ Throne and the Pulpit, subversive of Liberty and
“ Property, and all the Natural Rights of Humanity.
“ They examined into the divinity of this claim, and
“ found it weakly and fallaciously supported: And
“ *common reason assured them*, that, if it were of human
“ origin, no constitution could establish it without power
“ of revocation, no precedent could sanctify it, no length
“ of time could confirm it. The leaders felt the pulse of
“ the nation, and found they had ability as well as incli-
“ nation to resist it; and accordingly resisted and opposed
“ it.”

N. B. In this era sprang the present Charter to Exeter:

I have now to draw up the curtain, and let full evidence appear, whereby my Fellow-Citizens will happily know, that they will all be free from payment of County-Rates, for Repair of SOUTHGATE-PRISON, &c. &c.

You know, or ought to know,

(from Mr. Izaacke's Memorials, &c. &c.)

That King Edward, son of King Alfred, year 888, held a parliament in Exeter. — That Exeter was encompassed with a stone wall by King Athelstane; some part built while he resided in Exeter, as Mr. Izaacke declares, p. 17 of his *Antiquities*. — The walls of Southgate-Prison a part of the said *encompassing* wall, as it is to this day; THEN and NOW a Municipal *Common-Gaol*, so ROYALLY FOUNDED, and afterward royally endowed.

Exeter was made a City in the reign of King Edward the Confessor. Leofricus the first Bishop, anno 1049.

William the Conqueror subdued the City; and, as I have read, ordered the *old gate-way* of the Castle of Exon to be blocked up, and that which *now is* made. And, while King William was in Exeter, upon the inhabitants' intire submission, restored it to them again, with the ancient Priviledges, Lands, &c. reserving to himself an *annual FEE-FARM rent of twenty pounds*.

Mr. Izaacke, in his Preface, p. 19, says, "In the City of Excester, the King William the Conqueror hath 315 houses, more or less, paying RENT in this City, 48 lying waste *since* the King came to England. The Burgeses have 12 plough-lands *without* the City, which pay no custom or rent, *UNLESS* to the City." And this is *fully confirmed*, by Mr. Brady, page 8, in his Treatise on BURROUGHS, who adds, "And this is all that is to be found in Domesday Book of the description of Excester, concerning the Inhabitants, or of the Burgeses of *that place*."

*Besides these Lands, we find, among their Priviledges,
Town-Duties, &c. &c.*

King Henry I. (rather, as before cited; King Edw. III.) in his first year, granted Exeter a Charter to be free of all customs in England, both by land and water, with many other large priviledges and immunities, which have since been confirmed and enlarged by fundry successive Kings and Princes of this realm. See Izaacke, page 19 of his Preface.

King Edward I. granted them tolls, then called, in Old English, Bagavel, Bethugavel, and Chippengavel:

King Edward IV. by his letters patent, dated 20th June, 1463, constituted nine Aldermen herein, and bestowed on the City Magdalen-Fair, all felons' goods, with many other priviledges.

In or about the year 1491, the great Manor of Awliscombe, situated near Honiton, Devon, came into the hands of the Chamber of Exeter.

The Manor of Clift St. Lawrence, with the Patronage of the Church Benefice, belongs also the Chamber.

But the Rental astonishes me!!!

King Henry VIII. in the 28th or 29th year of his reign, by his letters patent, dated 3d of August, constituted this City a County of itself, dividing it from the County of Devon; and thereby granted them all liberties and priviledges belonging to the same, choosing Sheriffs, &c.

Izaacke adds, in year 1536, the 28th of King Henry VIII. "*A voluntary contribution made by the INHABITANTS of the County of Devon, towards the Building of COWLEY-BRIDGE, distant about two miles from the center of the City.*"

In the year 1547, King Edward VI. gave the Manor of Exe-Island, without the West Gate of the said City, and renewed their Charter. See Izaacke's Antiquities, p. 22.

The emoluments of the Chamber, from time to time, had given such a plenty of CASH, that, about the year 1549, they purchased from the Crown the FEE or MANOR of St. Nicholas, within the City, a *Priory* lately dissolved by act of parliament, and valued in the *King's books* at 154l. 10s. per ann.

In the year 1556, Queen Mary incorporated the Merchants of Exeter, with exclusive privilege to carry on a commerce with France. A manuscript folio of all their proceedings was given me some years since. This Company continued till the reign of King James I. when the commerce was laid open by act of parliament.

In the 1st year of Queen Elizabeth, 1559, here began (says Mr. Izaacke) the troublesome suits in law between the *Corporation of Merchants* and the *Freemen* hereof.

And I may justly add, great have been the contests, &c. between the Dean and Chapter and the Chamber, who have ever seemed desirous of exercising all their powers; and on the present occasion, respecting the Novel County-Rates, have attempted more than, I think, they have power to do.

In the year 1561, Queen Elizabeth granted the City a Charter, under her great seal, for Orphans; which, in the 5th year of her Majesty's reign, was confirmed by act of parliament. This was NO *diminution* of their income.

Izaacke, p. 136, year 1578, says, "A House of CORRECTION was here erected, towards which the Citizens GAVE liberally, whereof many of them afterwards repented."

Furthermore,

The Costs and Charges of repairing THE COMMON GAOL—COWLEY-BRIGE—OLD EXE-BRIDGE—and all the other Bridges—also THE HOUSE OF CORRECTION—have AT ALL TIMES been paid by THE CHAMBER.

And, in the year 1769, they had, as aforesaid, such a plenty of spare CASH, amounting to 4700*l.* to pay for the Quayage of Topsham, with its Rights, Members, and Appurtenances; and are now only temporarily void of Cash.

I would gladly thank the CHAMBER for a sight of the *Survey-Book* of their Estates and Outgoings, made in the year 1519, or either of the *Survey-Books* made since that period—of which, I can inform them, several have been since made.

Having, in manner aforesaid, formed for you a Political Telescope, for your examining the subjects and objects—and for your finding your road to *Westminster-Hall*—as I cannot speak without much pain in my ears, you must not expect any other service from me than the labour of the quill; wherewith I may be able to form another telescope encreased in quality; as a time may come, when the Municipal Power may overwhelm the Liberty of the Citizens; for what has been, may be.

There was a period, styled “King and Ball’s,” (Candidates to be Members of Parliament) when the Chamber of Exeter, in solemn council, voted to adopt means to abate their income from that time to this day, thus sacrificing to augment their Power; for then 300 Gentlemen, Clergy, &c. were made free, to vote with the side of power that the said Chamber had adopted; whereby those 300 new, then called Honourary, Freemen, and their elder sons after their fathers’ death, were EXEMPT from payment of town-dues, tolls in the markets, fairs, &c.

I again hesitate, whether to explain in this Tract, or in the Part 3d, of the Police of Exeter : However, I'll say here a few words on *Town-Dues*.

Among the ANGLO-SAXON customs, &c. in a Borough the inhabitants were *classed* : The first class Ten Families, who were responsible for each other. If one of them offended, the others were bound to make him forth-coming to justice, or, on neglect thereof, the Tything to be fined, &c. All the inhabitants were, in a degree, answerable for each other ; forming, by the suffrages of the members of the Tything (rather of the WARD) Aldermen and Common-Councilmen, as in London to this day, as before cited. Whatever Stranger came, and lived *approvedly* a year and a day, became a Freeman, publicly, at their *Guildhall*. These were called Burgeſſes—[There were also SLAVES]—subject to pay scot and lot, certain taxes. And, besides his scot and lot taxes, whenever a Stranger imported any goods, wares, and merchandize, or carried them into a market or fair, he paid a tribute ; on the imports, called *town-dues* ; in a market or fair, a *toll*.

Thus, *Town-Dues* originally were a part of the KING's Revenue ; and afterwards given, by royal bounty, to Bodies Corporate, and some to individuals, for military and other services to the Crown ;

And, among such services, I believe, virtually, the VERY SERVICE, for which the Justices issued their Two ORDERS from Sessions.

I have here an opportunity to offer a few words on the *Note*, page 11.

USAGE was the principle, on which the Jury, at Maidstone Lent Assizes, 1800, gave their verdict in favour of the Corporation.—A true verdict: But I hope in God, Parliament will obliterate all Corporation Bye-Laws that have a tendency to be *nationally injurious*, by preventing the introduction of Arts, Manufactories, &c. into Corporate Districts—(even those of an ARKWRIGHT—WEDGEWOOD)—unless the Freedom of the place be *purchased*, at whatever rate or fine the Governing Party of the Borough shall be pleased to impose. Thus, in Dover—"So much for your freedom; or 6s. 8d. per day for your exercising a business in our district"—and probably such a business as might employ the Poor, or otherwise tend to promote the general welfare of the place, &c.

Corporate Powers arose in the Days of Barbarism; and some of them continue obstacles to national liberty, barring the exercise of the honest faculties of the mind and body.

It has long been my remark, that those *Towns and Places* in England that have not been clogged with Corporate Injunctions and Prohibitions have most increased in Inhabitants, in Commerce, in Wealth, &c. †

† A ridiculous and absurd *bye-law* was practised by the Ruling POWER of the City of Exeter, as Mr. Izaacke informs us, under date 1426, that the Mayor of Exeter should take letters of administration, in preference to the Widow of a Freeman, dying and leaving children. His words are, "Twas proved in open court, that the MAYOR of this City for the time being, had the charge and government of every Freeman's Child (after his father's death) being within the age of 21 years; and is to appoint Guardians for the said Orphan, as well for his good education, as for the preservation and right ORDERING of his Estate and Fortune left him."

Also, under date 1442, "Sellers of Ale or Bread, not free, to pay 7d. quarterly."

Also, under date 1461, "An ordinance made by the MAYOR and COMMON-COUNCIL of this City, that every BAKER within the same and Suburbs thereof, should, from time to time, grind ALL HIS CORN, at the City-Mills, at Duryard and Crickelpit." Rot. 1.

Also, under date 1487, "Every Inhabitant, not free of the City, exercising any trade or business herein, to pay an annual tribute."—Mr. Izaacke does not mention the sum of money required annually.

N. B. More of this hereafter.

I shall conclude this Tract with a Prayer for all Men.

" *May the God of Peace*, that brought again from the
" dead our LORD JESUS, that Great Shepherd of the
" flock, through the blood of the everlasting covenant,

Make you perfect in every good work, to do his will,
working in you that which is well pleasing in his sight,
through Jesus Christ, to whom be glory for ever and ever.
Amen.

Dear Sirs,

I remain, during life,

Your devoted humble servant,

William Holmes,

A deaf independent Freeman of Exeter,

S. C. L. ——— Oxford.

Exeter,
The Last Day of
1799.



P. S. To make extracts from the manuscripts and books,
—arrange them for the press,—then to be revised—
A LABOUR at your service.

T. BRICE, PRINTER, HIGH-STREET, EXETER.